

TESTIMONY OF JAMES NEIL  
DIRECTOR OF OPERATIONS  
STATE MARSHAL COMMISSION  
JUDICIARY COMMITTEE  
MARCH 19, 2009

Good Afternoon, Senator McDonald, Representative Lawlor, and members of the Judiciary Committee. My name is James Neil and I am the Director of Operations for the State Marshal Commission. As you know, the State Marshal Commission (SMC) oversees and regulates the complex operations of Connecticut's State Marshals.

**Bill 6681 – An Act Concerning the Service of Restraining Orders for Relief from Domestic Abuse**

To begin, in my position as the Director of Operations at the State Marshal Commission, you should know that my feeling is that there is no single responsibility that State Marshals have that is greater than the service of Temporary Restraining Orders, and every State Marshal in Connecticut is well aware of that. The current system that is in place at every civil courthouse in Connecticut is working very well – that is not to say that we cannot improve, we can, but applicants for TROs are getting the service this Committee envisioned several years ago when the State Marshal Commission was established.

Between the resources of the State Marshal Commission and the Judicial Branch, the tools are in place to address the proposals contained in this Bill that are workable. I would suggest that legislation is not necessary in this area at all.

The suggested revisions to CGS Section 46b-15 I will leave to the Judicial Branch to comment on, however, I will say that the State Marshal Commission has the authority, given to it through statute by this Committee, to assign State Marshals the task of the service of restraining orders so the suggestion that the clerk of the court be given that authority at the request of a citizen appears a bit misplaced and disruptive.

Additionally, the suggestion that the State Marshal and the clerk of the court reschedule the hearing date should the respondent not be served is a bit curious as it infringes upon the notion that Marshals are "indifferent" to the action. It should be pointed out that the reason Marshals may not be able to serve a TRO is because the respondent does not have a home address, or abode, where service can be made.

Suggestions to amend CGS 6-38b are both redundant and unworkable. The State Marshal Commission already assigns Marshals to every courthouse on a rotating basis. The suggestion that the schedule cannot be deviated from without written permission from the Commission is, on a practical level, unworkable.

Finally, the suggestion to have the Judicial Branch conduct a study vis a vis the State Marshals becoming Judicial Branch employees would be a very costly endeavor and given the policy and constitutional roadblocks, it might not be a good use of valuable resources. Prior to

2000, the constitutional significance of civil process and executions was reflected in the position of sheriff being placed in the constitution where it had been for more than 200 years. When this provision was repealed in 2000, the legislature established the State Marshal Commission to oversee and regulate State Marshals. As the Attorney General has noted, service of process in Connecticut has always been considered a sovereign function of government entrusted to public officials empowered by law. State Marshals are public officers who take an oath to uphold the Constitution and the laws of Connecticut.

The legislature, in 2000, carefully considered its obligations under the constitution and to each branch of government in this area. To that end it created the State Marshal Commission, with commission members appointed by all three branches of government, and placed the Commission in the executive branch for administrative purposes only. In order to make an appropriate delegation of its regulatory powers to the Commission, the legislature had to declare its policy on service of process and execution of judgments, establish primary standards for carrying it out, to which the Commission needed to conform and to ensure proper regard for the protection of the public interest. It appropriately did so through statutory enactments creating the State Marshal Commission.

#### **Bill 5147 -An Act Concerning Service of Process Fees with Respect to Foreclosure**

I would like to suggest only that the Committee understand what the word "copies" means in CGS 52-261, as the proposed language seems to suggest that the word "copies" means the physical action of making photocopies of a document. The statutory origin of "copies" refers to the fee charged by the Marshal for comparing the photocopies to the original document for the purposes of making service of a true and attested copy. A better change, perhaps, might be to remove the word "copies" and replace it with "for comparing photocopied documents with original writs and complaints."

#### **Bill 6680 - An Act Concerning State Marshals, Judicial Marshals, Witness Fees, and the Service of Process**

I support all the changes suggested in Bill 6680, however, I have no comment regarding the final section, Section 9, as that pertains to Judicial Marshals.